

HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-FOURTH DAY — FRIDAY, MAY 2, 1997

The house met at 12:20 p.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 282).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Absent, Excused — Hill; Horn; Hupp; Wilson; Woolley.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Horn on motion of E. Reyna.

LEAVES OF ABSENCE GRANTED

On motion of Representative Carter and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative Carter moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed without objection.

MOTION FOR ONE RECORD VOTE

On motion of Representative Carter and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

**LOCAL CALENDAR
CONSENT CALENDAR
THIRD READING**

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

HB 3545**HB 3556****HB 131****HB 179** (Isett - no)**HB 293****HB 462****HB 500****HB 790****HB 846****SB 912****HB 970****HB 1029****HB 1051** (Patterson - no)**HB 1229****HB 1314****HB 1401****HB 1448****HB 1449****HB 1521****HB 1576****HB 1603** (Patterson - no)**HB 1640****HB 1692**

HB 1850

HB 1881

HB 1886

HB 1928

HB 2018

HB 2025 (Heflin, Kubiak, and Patterson - no)

HB 2064

HB 2157

HB 2203

HB 2285

HB 2290

HB 2297

HB 2309

HB 2318

HB 2335

HB 2339

HB 2397

HB 2438

HB 2525

HB 2596

HB 2600

HB 2671

HB 2861

HB 2883

SB 1162

HB 2940

HB 3058 (Chisum, Christian, Clark, Cook, Counts, Craddick, Finnell, Heflin, Howard, Isett, Keel, Kubiak, Patterson, Shields, Williams, and Wohlgemuth - no)

HB 3074

HB 3078

HB 3086

HB 3135

HB 3154

HB 3271

HB 3329

HB 3368

HB 3370

HB 3440

HB 3486

HB 3565

HB 3569

SB 82

SB 93

SB 290

SB 292

SB 503 (Chisum, Christian, Clark, Cook, Counts, Craddick, Culberson, Finnell, Heflin, Howard, Isett, Keffer, Kubiak, Patterson, Seaman, Shields, and Williams - no)

SB 626

SB 635

SB 639

SB 655

SB 699

SB 702

SB 992

STATEMENT BY REPRESENTATIVE WILLIAMS

I would like the record to reflect that I oppose **SB 503**. School districts are charged with educating students, not providing day care facilities. I do not object to school facilities being used for day care before and after school. The administration and delivery of those services should be left to others. I am aware of a very successful program in my district where the YMCA has partnered with a local school district to provide after-school child care at school facilities. This is an example of an appropriate manner to approach after-school care for young children at school facilities.

Williams

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by (Record 283): 142 Yeas, 0 Nays, 2 Present, not voting (members registering votes and the results of the vote are shown following bill number).

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hill; Horn; Hupp; Wilson; Woolley.

HB 3060 (142-0-2)

HB 253 (142-0-2)

HB 273 (142-0-2)

SB 327 (142-0-2)

HB 1540 (142-0-2)

HB 1601 (142-0-2)

SB 804 (142-0-2)

HB 1825 (142-0-2)

HB 2332 (142-0-2)

HB 2389 (Patterson - no) (141-1-2)

SB 1038 (142-0-2)

HB 2448 (142-0-2)

HB 2451 (Isett - no) (141-1-2)

SB 1219 (142-0-2)

SB 1712 (142-0-2)

HB 2666 (142-0-2)

HB 2747 (142-0-2)

HB 2833 (142-0-2)

HB 2875 (Chisum, Christian, Clark, Cook, Counts, Craddick, Finnell, Isett, Keel, Patterson, and Shields - no) (131-11-2)

HB 2982 (142-0-2)

HB 2997 (Chisum, Clark, Cook, and Counts - no) (138-4-2)

HB 3016 (142-0-2)

HB 3224 (142-0-2)

HB 3233 (142-0-2)

HB 3234 (142-0-2)

HB 3372 (142-0-2)

HB 3515 (142-0-2)

HB 3581 (142-0-2)

SB 420 (142-0-2)

SB 721 (142-0-2)

SB 816 (142-0-2)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business in the district:

Talton on motion of Shields.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

State, Federal, and International Relations, on recess today, Desk 128, to consider **CSSB 973**.

RECESS

Representative Swinford moved that the house recess until 1:45 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:38 p.m., recessed until 1:45 p.m. today.

AFTERNOON SESSION

The house met at 1:45 p.m. and was called to order by the speaker.

SB 29 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Goodman, the house granted the request of the senate for the appointment of a conference committee on **SB 29**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 29**: Goodman, chair, Naishtat, Staples, Van de Putte, and A. Reyna.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on **HB 1**:

Junell on motion of R. Lewis.

Delisi on motion of R. Lewis.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Coleman on motion of R. Lewis.

Gallego on motion of R. Lewis.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

**SB 1590 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Holzheuser, the house granted the request of the senate for the appointment of a conference committee on **SB 1590**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 1590**: Holzheuser, chair, Patterson, B. Turner, Flores, and Roman.

**SB 99 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Uher, the house granted the request of the senate for the appointment of a conference committee on **SB 99**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 99**: Pitts, chair, Alexander, Uher, Siebert, and Counts.

HB 3603 - PERMISSION TO INTRODUCE

Representative Counts requested permission to introduce and have placed on first reading **HB 3603**.

A record vote was requested.

Permission to introduce was granted by (Record 284): 133 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King;

Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Solis; Solomons; Staples; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hill; Horn; Hupp; Talton; Wilson; Woolley.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell.

Absent — Alexander; Clark; Dukes; Smith; Smithee.

STATEMENT OF VOTE

When Record No. 284 was taken, I was temporarily out of the house chamber. I would have voted yes.

Clark

HB 3604 - PERMISSION TO INTRODUCE

Representative Oakley requested permission to introduce and have placed on first reading **HB 3604**.

A record vote was requested.

Permission to introduce was granted by (Record 285): 132 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Hamric; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Telford; Thompson; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Nay — Tillery.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hill; Horn; Hupp; Talton; Wilson; Woolley.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell.

Absent — Haggerty; Hartnett; Nixon; Price; Siebert.

STATEMENT OF VOTE

When Record No. 285 was taken, I was in the house but away from my desk. I would have voted yes.

Hartnett

UNFINISHED BUSINESS

CSHB 2904 - (unfinished business) (by Dukes, Naishtat, et al.)

CSHB 2904, A bill to be entitled An Act relating to the creation, operation, and funding of the Texas Youthworks Program.

CSHB 2904 was read second time yesterday, May 1, and a point of order was raised and withdrawn.

Representative Grusendorf raised a point of order against further consideration of **CSHB 2904** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that rulemaking authority is also granted in the portion of Section 1 of the bill that adds Sections 2306.626 and 2306.627 of the Government Code, but the rulemaking authority statement in the bill analysis fails to identify those sections.

The speaker sustained the point of order.

The bill was returned to the Committee on Urban Affairs.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 162 ON SECOND READING (by Krusee and Hilderbran)

CSHB 162, A bill to be entitled An Act relating to the powers of the Lower Colorado River Authority to provide water services in Williamson County.

CSHB 162 was read second time on April 25 and was postponed until 10 a.m. today.

Representative Krusee moved to postpone consideration of **CSHB 162** until 10 a.m. Monday, May 5.

The motion prevailed without objection.

SB 646 ON SECOND READING (Dutton - House Sponsor)

SB 646, A bill to be entitled An Act relating to court reporting firms.

SB 646 was considered in lieu of **CSHB 696**.

SB 646 was read second time and was passed to third reading. (Keel recorded voting no)

CSHB 696 - LAID ON THE TABLE SUBJECT TO CALL

Representative Dutton moved to lay **CSHB 696** on the table subject to call.

The motion prevailed without objection.

HB 1956 ON SECOND READING
(by Counts)

HB 1956, A bill to be entitled An Act relating to certification of certain persons who practice acupuncture.

HB 1956 was read second time on April 25 and was postponed until 10 a.m. today.

Representative Counts moved to postpone consideration of **HB 1956** until 10 a.m. Thursday, May 8.

The motion prevailed without objection.

SB 1697 ON SECOND READING
(Bosse - House Sponsor)

SB 1697, A bill to be entitled An Act relating to the liability of a municipality for damages arising from its governmental functions.

SB 1697 was considered in lieu of **HB 2766**.

SB 1697 was read second time and was passed to third reading.

HB 2766 - LAID ON THE TABLE SUBJECT TO CALL

Representative Bosse moved to lay **HB 2766** on the table subject to call.

The motion prevailed without objection.

(Gallego now present)

SB 123 ON SECOND READING
(Gallego - House Sponsor)

SB 123, A bill to be entitled An Act relating to the treatment of repeat sex offenders.

SB 123 was considered in lieu of **CSHB 769**.

SB 123 was read second time and was passed to third reading. (Luna recorded voting no)

CSHB 769 - LAID ON THE TABLE SUBJECT TO CALL

Representative Gallego moved to lay **CSHB 769** on the table subject to call.

The motion prevailed without objection.

CSHB 1561 ON SECOND READING
(by Smith)

CSHB 1561, A bill to be entitled An Act relating to regulation of alarm systems by municipalities and counties.

CSHB 1561 was read second time on May 1 and was postponed until 10 a.m. today.

Representative Swinford moved to postpone consideration of **CSHB 1561** until 10 a.m. Wednesday, May 7.

The motion prevailed without objection.

HB 697 ON SECOND READING
(by Dutton)

HB 697, A bill to be entitled An Act relating to contracting by court reporters.

HB 697 was read second time on April 30 and was postponed until 1:30 p.m. today.

Amendment No. 1

Representative Corte offered the following amendment to **HB 697**:

Amend **HB 697** as follows:

1. On page 2, strike lines 16-17.
2. Renumber the subsequent sections appropriately.

Amendment No. 1 was adopted without objection.

HB 697, as amended, was passed to engrossment.

MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING

The following bills were laid before the house and read second time:

CSHB 1855 ON SECOND READING
(by Eiland)

CSHB 1855, A bill to be entitled An Act relating to sales tax exemption for items used in manufacturing tangible personal property for ultimate sale.

Amendment No. 1

Representative Eiland offered the following amendment to **CSHB 1855**:

Amend **CSHB 1855** as follows:

On page 2, line 8, between "2" and "to" add "or"

Amendment No. 1 was adopted without objection.

CSHB 1855 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE EILAND: The committee bill is designed to reverse the Tyler Pipe and Chevron Chemical decisions and narrow the scope of the manufacturing exemption consistent with the prior policy of the comptroller's office.

This amendment ensures that, while reversing Tyler Pipe and Chevron Chemical, the bill does not go significantly further in eliminating the manufacturing exemption for equipment that was considered exempt by the comptroller's office before those court decisions.

The amendment accomplishes this purpose by specifically providing that certain types of equipment necessary and essential to the manufacturing process will continue to qualify for the exemption.

REPRESENTATIVE DRIVER: Will boilers and waste heat boilers—including economizers, superheaters, waterwalls, hoppers, feedwater heaters, condensers, pumps, air preheaters, draft fans, pulverizers, oil burning equipment and gas burning equipment that together form a part of the boilers—be exempt under this amendment as "steam production equipment"?

EILAND: Yes, they would qualify under subsection (a)(4).

DRIVER: Will inert gas generators be exempt?

EILAND: Yes, under subsection (a)(4).

DRIVER: Will refrigeration units be exempt?

EILAND: Yes, if they are used directly in the production process to make a change in the product, under (a)(2). They are not exempt, under (c)(7) if used to maintain or store the product.

DRIVER: Will catalysts and regeneration units, ion exchange units, solvent recovery units, and isomerization units be exempt?

EILAND: Yes, if they cause a change to the product, an intermediate product, or an ingredient, under (a)(2)(A) or (a)(2)(B).

DRIVER: Does "steam production equipment" in (a)(4) include water purification equipment such as demineralizers and reverse osmosis units?

EILAND: Yes.

DRIVER: Will computer control equipment, including computers, regulators and recorders be exempt?

EILAND: Yes, under subsection (a)(4), if they control equipment that changes the product or equipment that makes electricity, chilled water or steam.

DRIVER: Does the piping exclusion reference in (c)(2) affect the exemption granted in subsection (q) for clean room piping?

EILAND: No.

REMARKS ORDERED PRINTED

Representative Eiland moved to print remarks by Representatives Eiland and Driver establishing legislative intent for **CSHB 1855**.

The motion prevailed without objection.

Amendment No. 2

Representative Eiland offered the following amendment to **CSHB 1855**:

Amend **CSHB 1855** as follows:

(1) On page 1, line 6, strike "Subsection (r)" and substitute "Subsections (r) and (s)".

(2) On page 3, between lines 5 and 6, insert:

(s) The following do not apply to the semiconductor fabrication cleanrooms and equipment in Subsection (q):

(1) limitations in Subsection (a)(2) that refer to tangible personal property directly causing chemical and physical changes to the product being manufactured, processed, or fabricated for ultimate sale;

(2) Subsection (c)(2); and

(3) Subsection (c)(6).

Amendment No. 2 was adopted without objection.

CSHB 1855, as amended, was passed to engrossment.

CSHB 3281 ON SECOND READING
(by Goodman and Naishtat)

CSHB 3281, A bill to be entitled An Act relating to local court processing for child support cases and to enforcement of child support orders; providing penalties.

CSHB 3281 was passed to engrossment.

HB 2906 ON SECOND READING
(by Wolens)

HB 2906, A bill to be entitled An Act relating to the duties of the state auditor, state audits, and investigations.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative S. Turner, Representative Wolens offered the following committee amendment to **HB 2906**:

Amend **HB 2906** as follows:

1. On page 2, line 24, insert the following between "auditor" and "only": "to audit the state agency or corporation".

2. On page 2, between lines 16 and 17, add subsection (g) as follows:

(g) If a department or entity does not implement a change recommended by the State Auditor's report, the department or entity shall file a report with the persons specified by Subsection (c). The report must:

(1) identify the recommendation the department or entity did not implement; and

(2) state the reason the department or entity did not implement the recommendation.

3. On page 3, lines 17-18, strike "directly and immediately".

4. On page 3, between lines 20 and 21, insert the following subsection: "(b) The state auditor, in consultation with state agencies and institutions, shall prescribe the form, content, and timing of a report required by this section."

5. On page 3, line 21, strike "(b)" and substitute "(c)".

6. On page 6, line 2, between "report" and ".", insert ", subject to the approval of the legislative audit committee".

7. On page 9, between lines 4 and 5, insert the following new section and renumber the sections accordingly:

Sec. 58.017, Agriculture Code, is amended to read as follows:

Sec. 58.017. PERFORMANCE MEASURES [COST-BENEFIT REPORT].
The board, in conjunction with the legislative budget board, the state auditor, and the Office of the Governor, shall develop a minimum of two performance measures that provide information on the benefits of the Authority's loan programs. The performance measures shall be included in the report required under Section 58.016(d) of this code or as a component of the measures incorporated into the appropriate act [(a) The board shall perform a biennial cost-benefit study of the authority's active and inactive programs and prepare a report regarding that study. The study must include an examination of the number of jobs created or retained in this state as a result of each program and the costs and benefits associated with those jobs].

~~[(b) The chairman of the board shall file the report prepared under Subsection (a) with the state auditor before December 1 of each even-numbered year.]~~

~~[(c) The state auditor shall review the report filed under Subsection (b) and send the report and the auditor's comments regarding the methodology used by the authority in performing the cost-benefit study to the governor and the presiding officer of each house of the legislature not later than February 1 of each odd-numbered year. The state auditor shall provide assistance to the department in preparing the report required by this section.]~~

8. On page 9, line 6, strike subsection (1) of Section 14 of the bill and renumber the subsections accordingly.

Amendment No. 2

Representative Wolens offered the following amendment to Amendment No. 1:

Amend Committee Amendment No. 1 to **HB 2906** as follows:

On page 11, line 7, strike "appropriate act" and substitute "Appropriations Act".

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

Amendment No. 3

Representative Wolens offered the following amendment to **HB 2906**:

Amend **HB 2906** as follows:

(1) Amend SECTION 14 as follows:

SECTION 14. The following laws are repealed:

- (1) Section 61.029(e), Education Code;
- (2) Section 321.013(j), Government Code;
- (3) Section 321.015, Government Code; ~~[and]~~
- (4) Section 2303.0525, Government Code; and
- (5) Section 15A, Texas State College and University Employees

Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code).

Amendment No. 3 was adopted without objection.

HB 2906, as amended, was passed to engrossment.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Gallego on motion of R. Lewis.

GENERAL STATE CALENDAR HOUSE BILLS THIRD READING

The following bills were laid before the house and read third time:

HB 2400 ON THIRD READING (by Garcia, et al.)

HB 2400, A bill to be entitled An Act relating to family and medical leave for certain employees; providing a civil penalty.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Cuellar on motion of Puente.

(Coleman now present)

HB 2400 - (consideration continued)

A record vote was requested.

HB 2400 was passed by (Record 286): 71 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Coleman; Cook; Counts; Danburg; Davila; Davis; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Flores; Garcia; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hernandez; Hightower; Hinojosa; Hirschi; Hochberg; Hodge; Jones, J.; King; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno; Naishtat; Oakley; Oliveira; Olivo; Patterson; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Sadler; Serna; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Bonnen; Brimer; Carter; Chisum; Christian; Clark; Corte; Crabb; Craddick; Culberson; Denny; Driver; Elkins; Finnell; Galloway; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Holzheuser; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Kamel; Keel; Keffer; Krusee; Kuempel; Madden; Marchant; McCall; Merritt; Moffat; Mowery; Nixon; Palmer; Pitts; Rabuck; Reyna, E.; Roman; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Turner, B.; Uher; Walker; West; Williams; Williamson; Wohlgemuth.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cuellar; Hill; Horn; Hupp; Talton; Wilson; Woolley.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell.

Absent — Dukes.

STATEMENT BY REPRESENTATIVE WILLIAMS

I would like the journal to show I voted against and adamantly oppose **HB 2400**. There is absolutely no need to create a new state bureaucracy and new state laws to implement an already effective federal law. Further government intervention in the employer/employee relationship created by this bill is frivolous and impractical.

Williams

HB 3207 ON THIRD READING (by Wolens)

HB 3207, A bill to be entitled An Act relating to the regulation of political contributions and expenditures and political advertising, the registration of lobbyists, personal financial disclosure by certain holders of and candidates for state office, and the publication of summaries of opinions of the Texas Ethics Commission.

Amendment No. 1

Representative King offered the following amendment to **HB 3207**:

Amend **HB 3207** on third reading by striking amended Section 159.002(b), Local Government Code, and substituting the following:

(b) The statement must ~~be~~:

(1) be filed with the county clerk ~~[auditor]~~ of the county in which the officer or candidate resides; and

(2) comply with Sections 572.022 and 572.023, Government Code ~~[filed on the form provided by the county auditor; and~~
~~[(3) verified]~~.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Swinford and Krusee offered the following amendment to **HB 3207**:

Amend **HB 3207** on third reading by inserting the following new section, appropriately numbered, and renumbering the subsequent sections accordingly:

SECTION _____. Section 572.052(a), Government Code, is amended to read as follows:

(a) A member of the legislature may not, for compensation, represent another person before a state agency in the executive branch of state government unless:

(1) the representation;

(A) is made in a proceeding that is adversary in nature or in another public hearing that is a matter of record; or

(B) [~~(2) the representation~~] involves the filing of documents, contacts with the agency, or other relations, that involve only ministerial acts on the part of the commission, agency, board, department, or officer; and

(2) the member discloses to the agency that the member is being compensated for the representation.

Amendment No. 2 was adopted without objection.

HB 3207, as amended, was passed.

HB 2463 ON THIRD READING
(by Moffat)

HB 2463, A bill to be entitled An Act relating to the powers and duties of certain water control and improvement districts.

(Alexander in the chair)

(Speaker in the chair)

Representative Burnam raised a point of order against further consideration of **HB 2463** under Rule 8, Section 10(b) of the House Rules on the grounds that the bill employs an artificial device that limits the application of the bill to specific political subdivisions.

The speaker sustained the point of order.

The ruling precluded further consideration of the bill.

HB 521 ON THIRD READING
(by Galloway, et al.)

HB 521, A bill to be entitled An Act relating to the punishment for the offense of burglary of a vehicle.

HB 521 was passed.

HB 133 ON THIRD READING
(by Hochberg, Kamel, and Kubiak)

HB 133, A bill to be entitled An Act relating to the standard of alcohol concentration used in defining the offense of driving while intoxicated.

HB 133 was passed. (Swinford recorded voting yes)

HB 1370 ON THIRD READING
(by Garcia)

HB 1370, A bill to be entitled An Act relating to the punishment for the offense of criminal mischief.

HB 1370 was passed.

HB 3161 ON THIRD READING
(by Brimer)

HB 3161, A bill to be entitled An Act relating to medical examinations required for an employee who may be entitled to workers' compensation benefits.

HB 3161 was passed.

HB 126 ON THIRD READING
(by Danburg)

HB 126, A bill to be entitled An Act relating to the time of the day at which a defendant confined on conviction of a misdemeanor discharges the sentence of confinement.

HB 126 was passed.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **HB 1**:

Coleman on motion of R. Lewis.

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Swinford on motion of R. Lewis.

HB 1629 ON THIRD READING
(by Berlanga, Seaman, and Luna)

HB 1629, A bill to be entitled An Act relating to the tuition charged to certain foreign students with financial need at certain public institutions of higher education.

A record vote was requested.

The vote of the house was taken on final passage of **HB 1629** and the vote was announced yeas 67, nays 66.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 287): 65 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Flores; Garcia; Giddings; Glaze; Greenberg; Gutierrez; Hernandez; Hightower; Hirschi; Hochberg; Hodge; Jones, J.; Kamel; King; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno; Naishtat; Oakley; Oliveira; Olivo; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Sadler; Seaman; Serna; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Wolens; Yarbrough; Zbranek.

Nays — Averitt; Bonnen; Brimer; Carter; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Culberson; Denny; Driver; Eiland; Elkins; Finnell; Galloway; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Holzheuser; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Keel; Keffer; Krusee; Kuempel; Madden; McCall; Merritt; Moffat; Mowery; Nixon; Palmer; Patterson; Pitts; Rabuck; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Turner, B.; Walker; West; Williams; Williamson; Wohlgemuth.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cuellar; Hill; Horn; Hupp; Talton; Wilson; Woolley.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Swinford.

Absent — Allen; Danburg; Hinojosa; Marchant; Wise.

The speaker stated that **HB 1629** failed to pass by the above vote.

STATEMENT OF VOTE

When Record No. 287 was taken, I was temporarily out of the house chamber. I would have voted no.

Allen

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Marchant on motion of Grusendorf.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Hinojosa on motion of Gutierrez.

HB 2049 ON THIRD READING (by Hightower)

HB 2049, A bill to be entitled An Act relating to the authority of a county to regulate certain fireworks during a drought.

HB 2049 was passed.

HB 1384 ON THIRD READING (by Telford)

HB 1384, A bill to be entitled An Act relating to the tuition charged to certain nonresident students registered at certain upper-level public institutions of higher education.

A record vote was requested.

HB 1384 was passed by (Record 288): 102 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brimer; Burnam; Chavez; Chisum; Christian; Cook; Counts; Crabb; Craddick; Culberson; Danburg; Davila; Davis; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Garcia; Giddings; Glaze; Goodman; Goolsby; Greenberg; Gutierrez; Haggerty; Hamric; Hernandez; Hightower; Hilbert; Hilderbran; Hirschi; Hochberg; Hodge; Holzheuser; Hunter; Jackson; Janek; Jones, D.; Jones, J.; Kamel; King; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Maxey; McCall; McClendon; McReynolds; Moreno; Naishtat; Oakley; Oliveira; Olivo; Patterson; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Sadler; Serna; Siebert; Smith; Solis; Solomons; Staples; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; Williamson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Bonnen; Carter; Clark; Corte; Denny; Gray; Grusendorf; Hartnett;

Hawley; Heflin; Isett; Keel; Keffer; Kubiak; Madden; Merritt; Moffat; Mowery; Nixon; Palmer; Rabuck; Roman; Seaman; Shields; Smithee; West; Williams; Wohlgemuth.

Present, not voting — Mr. Speaker(C); Galloway.

Absent, Excused — Cuellar; Hill; Hinojosa; Horn; Hupp; Marchant; Talton; Wilson; Woolley.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Swinford.

Absent — Howard; Luna; Reyna, E.

STATEMENTS OF VOTE

When Record No. 288 was taken, I was in the house but away from my desk. I would have voted no.

Howard

I was shown voting no on Record No. 288. I intended to vote yes.

Seaman

(Cuellar now present)

HB 2795 ON THIRD READING (by Averitt)

HB 2795, A bill to be entitled An Act relating to the composition and powers of the Texas Health Benefits Purchasing Cooperative; amending Chapter 26, Insurance Code; and declaring an emergency.

HB 2795 was passed.

HB 2984 ON THIRD READING (by Hunter, et al.)

HB 2984, A bill to be entitled An Act relating to the establishment of a pilot program regarding the care, rehabilitation, and education of medically fragile children and their families.

HB 2984 was passed. (Howard recorded voting no)

HB 2469 ON THIRD READING (by McReynolds, Christian, Glaze, and Telford)

HB 2469, A bill to be entitled An Act relating to the operation of vehicles transporting timber or timber products and to the operation of vehicles transporting poles or pipe.

HB 2469 was passed.

HB 1173 ON THIRD READING (by Coleman, Uher, Maxey, Averitt, Van de Putte, et al.)

HB 1173, A bill to be entitled An Act relating to coverage by certain health benefit plans for certain serious mental illnesses.

Amendment No. 1

Representative Chisum offered the following amendment to **HB 1173**:

Amend **CSHB 1173** on third reading in Article 3.51-14, Insurance Code, as amended by SECTION 1 of the bill, by adding a new Section 5 to the article to read as follows:

Sec. 5. CERTAIN BENEFITS PROHIBITED. (a) This article may not be interpreted to require a group health benefit plan to provide coverage for treatment of:

(1) addiction to a controlled substance or marihuana that is used in violation of law; or

(2) mental illness resulting from the use of a controlled substance or marihuana in violation of law.

(b) In this section, "controlled substance" and "marihuana" have the meanings assigned by Section 481.002, Health and Safety Code.

Amendment No. 1 was adopted without objection.

HB 1173, as amended, was passed. (Shields recorded voting no)

HB 104 ON THIRD READING

(by Greenberg, Allen, Culberson, Talton, Danburg, et al.)

HB 104, A bill to be entitled An Act relating to the punishment and eligibility for release on parole of criminal defendants who commit certain sexual offenses and sexually assaultive offenses.

HB 104 was passed.

HB 1128 ON THIRD READING

(by Kamel, Hightower, Merritt, McReynolds, and Staples)

HB 1128, A bill to be entitled An Act relating to the harvesting of and payment for timber; providing for damages; creating an offense.

HB 1128 was passed.

HB 1667 ON THIRD READING

(by Junell)

HB 1667, A bill to be entitled An Act relating to the confidentiality of documents evaluating the performance of certain officers of community supervision and corrections departments.

HB 1667 was passed.

HB 1668 ON THIRD READING

(by Junell)

HB 1668, A bill to be entitled An Act relating to the fees imposed to fund 9-1-1 services and regional poison control centers and to the oversight of the collection and use of those fees.

HB 1668 was passed.

HB 1795 ON THIRD READING
(by Kamel and Glaze)

HB 1795, A bill to be entitled An Act relating to The University of Texas at Tyler.

HB 1795 was passed. (Heflin recorded voting no)

HB 1723 ON THIRD READING
(by Telford, McReynolds, Glaze, and Kamel)

HB 1723, A bill to be entitled An Act relating to appraisal for property tax purposes of open-space land that is converted to production of timber.

HB 1723 was passed.

HB 2202 ON THIRD READING
(by Bosse)

HB 2202, A bill to be entitled An Act relating to the regulation of vehicle storage facilities; providing a penalty.

A record vote was requested.

HB 2202 was passed by (Record 289): 133 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hirschi; Hochberg; Hodge; Holzheuser; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hill; Hinojosa; Horn; Hupp; Marchant; Talton; Wilson; Woolley.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Swinford.

Absent — Davis; McCall.

STATEMENTS OF VOTE

When Record No. 289 was taken, I was in the house but away from my desk. I would have voted yes.

Davis

When Record No. 289 was taken, I was in the house but away from my desk. I would have voted yes.

McCall

When Record No. 289 was taken, I was temporarily out of the house chamber attending a meeting of the conference committee on **HB 1**. I would have voted no.

Swinford

HB 2442 ON THIRD READING
(by Galloway, et al.)

HB 2442, A bill to be entitled An Act relating to the prosecution of and the penalty for the offense of tampering with identification numbers.

HB 2442 was passed.

(Gallego and Swinford now present)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

HB 3492 ON THIRD READING
(by Holzheuser)

HB 3492, A bill to be entitled An Act relating to the Texas Committee on Energy Policy and the Texas Energy Coordination Council.

Amendment No. 1

Representative Hirschi offered the following amendment to **HB 3492**:

Amend **HB 3492** (second reading engrossment) as follows:

On page 5, line 2, insert the following after "problems."
"assess the interrelation between energy and the environment."

Amendment No. 1 was adopted without objection.

HB 3492, as amended, was passed.

HB 2922 ON THIRD READING
(by Thompson)

HB 2922, A bill to be entitled An Act relating to the county clerk's and district clerk's authority to refuse to file documents that are not accompanied by the appropriate fee.

HB 2922 was passed.

HB 236 ON THIRD READING
(by Solomons)

HB 236, A bill to be entitled An Act relating to distances traveled by jurors.

HB 236 was passed.

HB 325 ON THIRD READING**(by Pickett, Glaze, et al.)**

HB 325, A bill to be entitled An Act relating to the required distance between certain businesses that sell alcoholic beverages and a day-care center or child-care facility.

HB 325 was passed.

HB 580 ON THIRD READING**(by Coleman, Maxey, et al.)**

HB 580, A bill to be entitled An Act relating to enforcement of laws relating to parking by persons with disabilities.

HB 580 was passed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Holzheuser on motion of Kuempel.

HB 1377 ON THIRD READING**(by Maxey and Coleman)**

HB 1377, A bill to be entitled An Act relating to drug benefits available under certain health care programs administered by the Texas Department of Health.

HB 1377 was passed.

HB 1898 ON THIRD READING**(by Alexander)**

HB 1898, A bill to be entitled An Act relating to the relocation of utilities by the Texas Department of Transportation essential to the timely completion of a state highway improvement project.

Amendment No. 1

Representative Alexander offered the following amendment to **HB 1898**:

Amend **HB 1898** on Third Reading as follows:

(1) In added Section 203.092(a)(2), Transportation Code, strike "relocation of the utility" and substitute "relocation of the utility facility".

(2) In added Section 203.0921(a)(1), Transportation Code, strike "relocation of the utility" and substitute "relocation of the utility facility".

(3) In added Section 203.0921(a)(4)(D), Transportation Code, strike "department findings" and substitute "commission findings".

Amendment No. 1 was adopted without objection.

HB 1898, as amended, was passed.

HB 1736 ON THIRD READING
(by McClendon, Danburg, and Allen)

HB 1736, A bill to be entitled An Act relating to the release of information regarding a registered sex offender to certain school personnel.

HB 1736 was passed.

GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING

The following bills were laid before the house and read third time:

SB 226 ON THIRD READING
(D. Jones - House Sponsor)

SB 226, A bill to be entitled An Act relating to defense economic readjustment zones; authorizing the issuance of bonds.

A record vote was requested.

SB 226 was passed by (Record 290): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hirschi; Hochberg; Hodge; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hill; Hinojosa; Holzheuser; Horn; Hupp; Marchant; Talton; Wilson; Woolley.

Absent, Excused, Committee Meeting — Coleman; Delisi; Junell.

SB 833 ON THIRD READING
(Wolens - House Sponsor)

SB 833, A bill to be entitled An Act relating to the powers and duties of the General Services Commission concerning state and federal surplus and salvage property and to certain commission personnel.

A record vote was requested.

SB 833 was passed by (Record 291): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hirschi; Hochberg; Hodge; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hill; Hinojosa; Holzheuser; Horn; Hupp; Marchant; Talton; Wilson; Woolley.

Absent, Excused, Committee Meeting — Coleman; Delisi; Junell.

Absent — Place.

GENERAL STATE CALENDAR HOUSE BILLS SECOND READING

The following bills were laid before the house and read second time:

CSHB 1961 ON SECOND READING (by Howard, Coleman, and Danburg)

CSHB 1961, A bill to be entitled An Act relating to the transfer of certain state property from the Texas Department of Transportation to certain governmental entities.

Amendment No. 1

Representative Uher offered the following amendment to **CSHB 1961**:

Amend **CSHB 1961** by deleting the language in Section 1 (d)(1)(B) beginning on page 2, line 10 and substituting the following language:

(B) provides for right-of-way reservations in a width determination by the Texas Department of Transportation as necessary for the future expansion of U.S. Highway 59 or the future construction of a U.S. Highway 6 bypass.

Amendment No. 1 was adopted without objection.

CSHB 1961, as amended, was passed to engrossment.

CSHB 1452 ON SECOND READING
(by Gutierrez)

CSHB 1452, A bill to be entitled An Act relating to poaching; providing a penalty.

Representative Chisum raised a point of order against further consideration of **CSHB 1452** under Rule 4, Section 32 (b)(10) of the House Rules on the grounds that the minutes indicate that Representative Gutierrez, who is not a member of the committee, was recognized to explain the bill but his name is not listed on the witness list.

The speaker sustained the point of order.

The bill was returned to the Committee on State Recreational Resources.

HB 1498 ON SECOND READING
(by Wise, et al.)

HB 1498, A bill to be entitled An Act relating to motor vehicle insurance rates for certain individuals with good driving records who are members of youth groups.

Amendment No. 1

Representative Smithee offered the following amendment to **HB 1498**:

Amend **HB 1498** as follows:

(1) On page 2, strike lines 4-7 and substitute the following:

(6) "Youth group" means a nonprofit organization that:

(A) is chartered as a national or statewide organization;

(B) is organized and operated exclusively for youth recreational or educational purposes and that includes, as part of the group's program, components relating to:

(i) prevention of drug abuse;

(ii) character development;

(iii) citizenship training; and

(iv) physical and mental fitness;

(C) has been in existence for at least 10 years; and

(D) has a membership of which at least 65 percent is younger than 22 years of age.

(2) On page 2, line 21, following "adult" insert "leader, board member, or officer".

(3) On page 2, line 22, strike "member".

(4) On page 2, between lines 22 and 23, insert:

(3) be younger than 22 years of age or an adult leader, board member, or officer of the group;

(5) On page 2, line 23, strike "(3)" and substitute "(4)".

(6) On page 2, line 25, strike "(4)" and substitute "(5)".

(7) On page 3, line 1, strike "(5)" and substitute "(6)".

Amendment No. 1 was adopted without objection.

HB 1498, as amended, was passed to engrossment.

HB 455 ON SECOND READING
(by G. Lewis, J. Jones, et al.)

HB 455, A bill to be entitled An Act relating to objection to a visiting judge.

Amendment No. 1

Representatives Solis and Oliveira offered the following amendment to **HB 455**:

Amend **HB 455** by inserting the following after the period on page 1, line 9:

This subsection applies in a criminal case only if the criminal case is before a court in a county having a population of more than 500,000.

Amendment No. 1 was adopted.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

HB 455 - (consideration continued)

Amendment No. 2

Representatives Puente and Nixon offered the following amendment to **HB 455**:

Amend **HB 455** as follows:

1) On page 1, strike lines 4-5 and substitute the following:

SECTION 1. Section 74.053, Government Code, is amended by amending Subsection (a), (b) and (c) and adding Subsection (e) to read as follows:

(a) When a judge is assigned under this chapter the presiding judge shall[; if it is reasonable and practicable and if time permits,] give notice of the assignment to each attorney representing a party to the case that is to be heard in whole or part by the assigned judge.

2) On page 1, line 8, strike "Subsection (d)" and substitute "Subsections [Subsection] (d) and (e)"

3) On page 1, between lines 9 and 10 insert the following:

(c) Except as provided by Subsection (e), an [An] objection under this section must be filed before the first hearing or trial, including pretrial hearings, over which the assigned judge is to preside.

(e) A party may object to a judge assigned to preside over a trial regardless of whether:

(1) the party did not object to the assignment of the same judge to preside over a pretrial hearing in the case; or

(2) the party objected to another judge assigned to preside over a pretrial hearing in the case.

Representative Shields raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The speaker sustained the point of order.

The ruling precluded further consideration of the amendment.

Amendment No. 3

Representative Nixon offered the following amendment to **HB 455**:

Amend **HB 455** by striking page 1, lines 4-5, and substituting the following:

SECTION 1. Sections 74.053(a) and (b), Government Code, are amended to read as follows:

(a) When a judge is assigned under this chapter the presiding judge shall[; ~~if it is reasonable and practicable and if time permits,~~] give notice of the assignment to each attorney representing a party to the case that is to be heard in whole or part by the assigned judge.

Amendment No. 3 was adopted without objection.

HB 455, as amended, was passed to engrossment.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Nixon on motion of R. Lewis.

HB 1323 ON SECOND READING
(by Luna)

HB 1323, A bill to be entitled An Act relating to a fee collected by a prosecutor for collecting and processing a dishonored or forged check or similar sight order.

Representative Luna moved to postpone consideration of **HB 1323** until 10 a.m. Thursday, May 8.

The motion prevailed without objection.

(Berlanga in the chair)

CSHB 1006 ON SECOND READING
(by J. Jones, et al.)

CSHB 1006, A bill to be entitled An Act relating to the suspension or denial of a driver's license or permit to certain children who use or possess a firearm while in a motor vehicle.

CSHB 1006 was passed to engrossment.

CSHB 2067 ON SECOND READING
(by Swinford and Horn)

CSHB 2067, A bill to be entitled An Act relating to temporary vehicle registration.

CSHB 2067 was passed to engrossment.

HB 2703 ON SECOND READING
(by Stiles)

HB 2703, A bill to be entitled An Act relating to the regulation of manufactured housing; providing penalties.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Pickett, Representative Stiles offered the following committee amendment to **HB 2703**:

Amend **HB 2703** as follows:

(1) In Section 3 of **HB 2703**, on Page 11, strike the new language added in lines 4-7 and replace it with the following new language:

"In order to obtain board approval, the local governmental unit must demonstrate that the public health and safety require the different standards."

(2) In Section 4 of **HB 2703**, on Page 11, strike lines 23-25 and insert the following language:

"(a) The department shall establish an inspection program whereby at least twenty five percent of the manufactured homes installed are inspected on a sample basis for compliance. The department's program shall place priority on multi-section homes and homes installed in Wind Zone II."

(3) In Section 11 of **HB 2703**, on Page 26, line 15, change \$100,000 to \$50,000.

(4) Delete Section 8 from **HB 2703** in its entirety, and renumber the remaining sections, accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Pickett, Representative Stiles offered the following committee amendment to **HB 2703**:

Amend **HB 2703** as follows:

(1) In Section 4 of **HB 2703**, strike lines 26-27, Page 11, and lines 1-16, Page 12, and replace with the following language:

"(b) Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, and Willacy counties are in Wind Zone II. All other counties are in Wind Zone I."

"(c) A manufactured home constructed on or after the effective date of this section must meet the Wind Zone II standards adopted by the U.S. Department of Housing and Urban Development in order to be installed in a Wind Zone II county."

"(d) All manufactured homes constructed prior to the effective date of this section may be installed in Wind Zone I or Wind Zone II without restriction."

"(e) A consumer purchasing a manufactured home constructed on or after the effective date of this section to Wind Zone I standards must be given a notice by the selling retailer that:

"(1) the home was not designed nor constructed to withstand hurricane force winds which may occur in Wind Zone II or III areas; and

"(2) the home is not permitted to be installed in Wind Zone II counties in Texas, and there may be restrictions in other states prohibiting installation in Wind Zone II or III areas."

"(f) The notice required by this section shall be given the consumer prior to the execution of any mutually binding sales agreement or retail installment sales contract."

Amendment No. 2 was adopted without objection.

HB 2703, as amended, was passed to engrossment.

HB 2839 ON SECOND READING
(by Sadler)

HB 2839, A bill to be entitled An Act relating to regional education service centers.

Representative Sadler moved to postpone consideration of **HB 2839** until 10 a.m. Friday, May 9.

The motion prevailed without objection.

CSHB 1203 ON SECOND READING
(by S. Turner)

CSHB 1203, A bill to be entitled An Act relating to credit in, benefits from, and administration of certain municipal retirement systems for police officers.

CSHB 1203 was passed to engrossment.

CSHB 1001 ON SECOND READING
(by Dutton)

CSHB 1001, A bill to be entitled An Act relating to eligibility requirements for voting by persons convicted of a felony.

CSHB 1001 was passed to engrossment. (Hunter, Keel, E. Reyna, and Shields recorded voting no)

CSHB 332 ON SECOND READING
(by Danburg, Denny, Madden, Ehrhardt, J. Jones, et al.)

CSHB 332, A bill to be entitled An Act relating to election precincts and polling places; providing a criminal penalty.

CSHB 332 was passed to engrossment.

CSHB 3194 ON SECOND READING
(by Alexander)

CSHB 3194, A bill to be entitled An Act relating to the construction and operation of certain sour gas pipeline facilities.

CSHB 3194 was passed to engrossment.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Gutierrez on motion of Roman.

CSHB 3189 ON SECOND READING
(by Kuempel, et al.)

CSHB 3189, A bill to be entitled An Act relating to the authority of the Parks and Wildlife Department to issue revenue bonds.

CSHB 3189 was passed to engrossment. (Heflin recorded voting no)

HB 1868 ON SECOND READING**(by S. Turner)**

HB 1868, A bill to be entitled An Act relating to certain exceptions to the definition of dentistry.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Berlanga, Representative S. Turner offered the following committee amendment to **HB 1868**:

Amend Section 1 of **HB 1868** beginning on page 2, line 20 by striking all of subsection (10) and substituting the following language:

(10) students of a ~~[reputable]~~ dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association and operated at an accredited institution of higher education [school] who practice dental hygiene without pay under the general supervision of a dentist and under the supervision of a demonstrator or teacher who is a member of the faculty of that program in a clinic operated for the sole benefit of the program's institution of higher education or in a clinic operated by a government or nonprofit organization, that serves underserved populations as determined by rule of the State Board of Dental Examiners and in strict conformity with the laws of this state regulating the practice of dental hygiene; [or]

Amendment No. 1 was adopted without objection.

HB 1868, as amended, was passed to engrossment.

(Speaker in the chair)

CSHB 2877 ON SECOND READING**(by Greenberg, Naishtat, Maxey, Keel, and Dukes)**

CSHB 2877, A bill to be entitled An Act relating to the issuance of bonds for projects by the Texas Public Finance Authority.

Representative Greenberg moved to postpone consideration of **CSHB 2877** until 10 a.m. Tuesday, May 6.

The motion prevailed without objection.

CSHB 1534 ON SECOND READING**(by Hamric, McCall, and Danburg)**

CSHB 1534, A bill to be entitled An Act relating to the certification of mammography systems.

Amendment No. 1

Representative Hamric offered the following amendment to **CSHB 1534**:

Amend **CSHB 1534** as follows:

- (1) On page 6, line 3, strike "the facility received notice".
- (2) On page 6, line 4, between "of" and "the" insert "the inspection that revealed".

Amendment No. 1 was adopted without objection.

CSHB 1534, as amended, was passed to engrossment.

HB 1334 ON SECOND READING
(by Hochberg)

HB 1334, A bill to be entitled An Act relating to a change of beneficiary by a retiree of the Teacher Retirement System of Texas.

HB 1334 was passed to engrossment.

CSHB 1542 ON SECOND READING
(by Counts)

CSHB 1542, A bill to be entitled An Act relating to the authorization of the Texas Natural Resource Conservation Commission to issue general permits by rule for the discharge of waste into or adjacent to water in the state.

CSHB 1542 was passed to engrossment. (Maxey, Puente, and Thompson recorded voting no)

SB 1111 ON SECOND READING
(Van de Putte - House Sponsor)

SB 1111, A bill to be entitled An Act relating to the investment authority of certain insurers.

SB 1111 was considered in lieu of **HB 1680**.

SB 1111 was passed to third reading.

HB 1680 - LAID ON THE TABLE SUBJECT TO CALL

Representative Van de Putte moved to lay **HB 1680** on the table subject to call.

The motion prevailed without objection.

HB 2192 ON SECOND READING
(by Rangel)

HB 2192, A bill to be entitled An Act relating to the establishment of a physician recruitment program for medically underserved areas.

HB 2192 was passed to engrossment.

CSHB 2482 ON SECOND READING
(by Smithee, Corte, Counts, Edwards, Hilderbran, et al.)

CSHB 2482, A bill to be entitled An Act relating to the establishment of an accreditation program for child-care facilities and child-placing agencies as an alternative to state licensure; providing a criminal penalty.

Amendment No. 1

Representative Smithee offered the following amendment to **CSHB 2482**:

Amend **CSHB 2482** as follows:

(1) On page 3, strike lines 17-27, and on page 4, strike lines 1-23, and substitute the following:

Sec. 42.105. BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) An approved accreditation organization shall obtain from the department information from the central registry of reported cases of child abuse or neglect

established under Section 261.002, Family Code, and information from the Department of Public Safety under Section 411.114, Government Code, for purposes of reviewing the general character and fitness of:

(1) a child-care administrator seeking accreditation under Section 43.003;

(2) a person who registers with the department to operate under this subchapter or a holder of a certificate issued under this subchapter;

(3) an operator of a child-care facility or child-placing agency accredited by the organization and seeking to register with the department under Section 42.104 or issued a certificate to operate under that accreditation under this subchapter; and

(4) an employee of or an applicant for employment by a child-care facility or child-placing agency accredited by the organization and seeking to register with the department under Section 42.104 or issued a certificate to operate under that accreditation under this chapter.

(b) The department by rule may provide for not issuing or not renewing a certificate to operate under accreditation or may revoke a certificate based on the results of a background or criminal history check conducted by the department under this section.

(2) On page 4, line 25, strike "Section 42.105(d)" and substitute "Section 42.105(b)".

(3) On page 5, lines 10 and 11, strike "stated in the application" and substitute "named in the registration".

(4) On page 8, line 20, strike "a symbol, art, icon, and scripture" and substitute "symbols, art, icons, and scripture".

(5) On page 10, lines 26 and 27, and on page 11, line 1, strike "or an applicant for a certificate to operate under accreditation under that chapter subject to Section 42.105, Human Resources Code" and substitute "or a person who registers with or has been issued a certificate to operate under accreditation by the Department of Protective and Regulatory Services under Subchapter E, Chapter 42, Human Resources Code".

(6) On page 11, lines 5-7, strike "has been approved to operate under accreditation under that chapter subject to Section 42.105, Human Resources Code" and substitute "is seeking to register with or has been issued a certificate to operate under accreditation by the Department of Protective and Regulatory Services under Subchapter E, Chapter 42, Human Resources Code".

(7) On page 13, lines 4-6, strike "has been issued a certificate to operate under accreditation under Subchapter E, Chapter 42, Human Resources Code" and substitute "is seeking to register with or has been issued a certificate to operate under accreditation by the Department of Protective and Regulatory Services under Subchapter E, Chapter 42, Human Resources Code".

(8) On page 13, lines 8 and 9, strike ", subject to Section 42.105, Human Resources Code".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Naishtat offered the following amendment to **CSHB 2482**:

Amend **CSHB 2482** as follows:

On page 6, line 27, after the period insert the following new Subsection (c) to read as follows:

(c) If, as provided by Subsection (a), the department has inspected a child-care facility or child-placing agency that has received a certificate to operate under accreditation as provided by Section 42.106, the department may require the facility or agency to take appropriate corrective action to eliminate any violations of the standards of the accreditation organization or such other action as the department determines necessary to ensure the health or safety of the children attending or residing in the facility or agency. The department may continue to inspect the facility or agency until corrective action has been taken and for such reasonable time after corrective action to ensure continued compliance with standards.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Raymond offered the following amendment to **CSHB 2482**:

Amend **CSHB 2482** as follows:

(1) In SECTION 1 of the bill, in proposed Subsection 42.102(a)(1), (page 1, line 23), strike "are substantially similar to" and substitute "meet".

(2) In SECTION 6 of the bill, in proposed Subsection 43.003(c), (page 10, line 11), strike "are substantially similar to" and substitute "meet".

Amendment No. 3 was adopted without objection.

CSHB 2482, as amended, was passed to engrossment.

HB 629 ON SECOND READING (by Yarbrough)

HB 629, A bill to be entitled An Act relating to recruitment requirements for hiring personnel at the Texas Alcoholic Beverage Commission.

HB 629 was passed to engrossment.

HB 1310 ON SECOND READING (by Chisum)

HB 1310, A bill to be entitled An Act relating to the extension or reimposition of the sales and use tax by certain industrial development corporations.

HB 1310 was passed to engrossment.

HB 1259 ON SECOND READING (by Thompson)

HB 1259, A bill to be entitled An Act relating to the prosecution of and the punishment for the offense of interference with child custody.

HB 1259 was passed to engrossment.

CSHB 1394 ON SECOND READING
(by B. Turner)

CSHB 1394, A bill to be entitled An Act relating to the provision of services to certain areas by a municipality.

Representative B. Turner moved to table **CSHB 1394**.

The motion to table prevailed.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Stiles requested permission for the Committee on Calendars to meet while the house is in session.

Permission to meet was granted without objection.

Representative Berlanga requested permission for the Committee on Public Health to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Calendars, 5:35 p.m. today, speakers committee room.

Public Health, 5:35 p.m. today, speakers committee room.

CSHB 1439 ON SECOND READING
(by Hilderbran)

CSHB 1439, A bill to be entitled An Act relating to use of financial assistance granted to persons with dependent children.

Amendment No. 1

Representative Hilderbran offered the following amendment to **CSHB 1439**:

Amend **CSHB 1439** as follows:

(1) On page 1, between lines 15 and 16, insert the following:

(b) If a recipient of financial assistance who receives the assistance by electronic benefits transfer to an account is authorized to make a cash withdrawal from the account through a provider of the goods or services described by Subsection (a), the recipient may make the cash withdrawal only at the customer service department of the provider and not at the provider's point-of-sale terminal.

(2) On page 1, line 16, strike "(b)" and substitute "(c)".

(3) On page 1, line 21, strike "(c)" and substitute "(d)".

(4) On page 2, line 10, strike "(d)" and substitute "(e)".

(5) On page 2, line 17, strike "(e)" and substitute "(f)".

Amendment No. 1 was adopted without objection.

CSHB 1439, as amended, was passed to engrossment.

CSHB 1662 ON SECOND READING
(by Counts)

CSHB 1662, A bill to be entitled An Act relating to rates for certain lines of insurance.

Representative Shields raised a point of order against further consideration of **CSHB 1662** under Rule 4, Section 32(c)(3) of the House Rules on the grounds that the section-by-section analysis of the bill analysis is inaccurate.

The speaker sustained the point of order.

The bill was returned to the Committee on Insurance.

(R. Lewis in the chair)

CSHB 2001 ON SECOND READING
(by Oliveira, Serna, Luna, and Seaman)

CSHB 2001, A bill to be entitled An Act relating to the enterprise zone program.

Amendment No. 1

Representatives Oliveira and Junell offered the following amendment to **CSHB 2001**:

Amend **CSHB 2001** as follows:

- (1) on page 6, line 11 strike ", (b),"; and
- (2) strike all language beginning on page 6, line 26, through page 7, line 3.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Oliveira and Junell offered the following amendment to **CSHB 2001**:

Amend **CSHB 2001** on page 7, line 22 after "Government Code," by striking "is" and substituting "and Section 171.501, Tax Code, are".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representatives Oliveira and Junell offered the following amendment to **CSHB 2001**:

Amend **CSHB 2001** on page 8, lines 7 through 10, by striking all language to strike subsection (c).

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Coleman offered the following amendment to **CSHB 2001**:

Amend **CSHB 2001** as follows:

- (1) On page 8, between lines 10 and 11, insert the following:
SECTION 13. Section 151.429, Tax Code, is amended by amending Subsection (h) and adding Subsection (i) to read as follows:

(h) Notwithstanding the other provisions of this section, the owner of a qualified hotel project shall receive a rebate, refund, or payment of 100 percent of:

(1) the sales and use taxes paid or collected by the qualified hotel project or businesses located in the qualified hotel project pursuant to this chapter;

(2) ~~[and 100 percent of]~~ the hotel occupancy taxes paid by persons for the use or possession of or for the right to the use or possession of a room or space at the qualified hotel project pursuant to the provisions of Chapter 156; and

(3) the mixed beverage taxes paid by permittees, as that term is defined by Section 183.001, located at the qualified hotel project that are not payable to a county or municipality under Section 183.051 [during the first 10 years after such qualified hotel project is open for initial occupancy].

(i) The owner of a qualified hotel project shall receive the rebate, refund, or payment under Subsection (h) for taxes paid or collected during the first 10 years after the date the project opens for initial occupancy.

SECTION 14. Subchapter I, Chapter 151, Tax Code, is amended by adding Section 151.4295 to read as follows:

Sec. 151.4295. COLLECTION OF CERTAIN TAXES.

(a) Notwithstanding any other provision of this code, the comptroller shall enter into an agreement with the owner of a qualified hotel project entitled to receive a rebate, refund, or payment under Section 151.429 under which the owner will collect those taxes as the comptroller's agent and retain the taxes.

(b) An agreement made under Subsection (a) must:

(1) specify the date on which the agreement begins and ends;

(2) require the owner of the qualified hotel project to file periodic reports with the comptroller that include detailed information relating to the total amount of each tax collected and retained by the owner during the reporting period; and

(3) require the owner to keep and retain records relating to the total amount of each tax collected and retained by the owner.

(c) After the comptroller enters into an agreement under Subsection (a), the comptroller shall issue to the owner of the qualified hotel project and to each owner of a business located in the qualified hotel project a certificate that:

(1) authorizes each owner to present the certificate or a copy of the certificate to a seller of taxable items relating to the qualified hotel project or business in lieu of the payment of taxes under this chapter that would otherwise be due on the purchase of the taxable items; and

(2) requires a business located in the qualified hotel project to remit to the owner of the qualified hotel project any taxes that would otherwise be remitted to the comptroller and subject to rebate, refund, or payment under Section 151.429.

SECTION 15. Section 2303.5055, Government Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) Notwithstanding any other provision of the Tax Code, an agreement entered into under this section may:

(1) provide that eligible taxable proceeds need not be paid to or

collected by a governmental body, the tax assessor-collector of a governmental body, or the comptroller but may be paid to, collected by, or retained by the owner of a qualified hotel project;

(2) require the owner of a qualified hotel project to file periodic reports with the governmental body that include detailed information relating to the total amount of eligible taxable proceeds collected and retained by the owner during the reporting period; and

(3) require the owner to keep and retain records relating to the total amount of eligible taxable proceeds collected and retained by the owner.

(g) A governmental body that enters into an agreement under this section may issue to each owner of a business located in a qualified hotel project a certificate that requires each owner to pay all eligible taxable proceeds directly to the owner of the qualified hotel project in lieu of the payment or remittance of the eligible taxable proceeds to the governmental body or the comptroller.

SECTION 16. The change in law made by Sections 13, 14, and 15 of this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before that date is continued in effect for purposes of the liability for and collection of those taxes.

(2) Renumber the subsequent sections of the bill appropriately.

Amendment No. 4 was adopted without objection. (Hartnett recorded voting no)

CSHB 2001, as amended, was passed to engrossment.

STATEMENT BY REPRESENTATIVE WILLIAMS

I would like the record to reflect my enthusiastic support of **HB 2001**. This bill includes the Texas Conservative Coalition Business Task Force recommendations from the 74th Legislature. This bill gives the Texas Department of Commerce and local governments the ability to lower taxes in economically depressed areas.

Williams

CSHB 3254 ON SECOND READING (by Hupp)

CSHB 3254, A bill to be entitled An Act relating to correctional facilities that house inmates convicted of offenses against the laws of another state of the United States.

CSHB 3254 was passed to engrossment.

HB 727 ON SECOND READING (by Van de Putte)

HB 727, A bill to be entitled An Act relating to the regulation of massage therapy; providing penalties.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hirschi, Representative Van de Putte offered the following committee amendment to **HB 727**:

Amend **HB 727** on page 15, on line 1, delete the last "or".

Amend **HB 727** on page 15, on line 3, by inserting "or" following the word "jurisdiction"

Amend **HB 727** on page 15, on line 4, add the following:

"(12) knowingly providing, or offering to provide diagnosis, or the treatment of illness, injury, or disease."

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Hirschi, Representative Van de Putte offered the following committee amendment to **HB 727**:

Amend **HB 727** on page 2, line 3, in SECTION 1(1) by adding "osteopathic medicine or" after the word "or" and before the word "the".

Amendment No. 2 was adopted without objection.

HB 727, as amended, was passed to engrossment.

CSHB 349 ON SECOND READING
(by Hamric, Gray, et al.)

CSHB 349, A bill to be entitled An Act relating to coverage under certain health benefit plans for care after the performance of a mastectomy and certain related procedures.

Amendment No. 1

Representative Hamric offered the following amendment to **CSHB 349**:

Amend **CSHB 349** as follows:

- (1) On page 2, line 22, strike ": or" and substitute ":".
- (2) On page 2, strike lines 23-27.
- (3) On page 4, line 23, strike "(a)".
- (4) On page 4, strike line 27.
- (5) On page 5, strike lines 1 and 2.

Amendment No. 1 was adopted without objection.

CSHB 349, as amended, was passed to engrossment.

(Speaker in the chair)

CSHB 226 ON SECOND READING
(by Hirschi)

CSHB 226, A bill to be entitled An Act relating to laws regulating the distribution and dispensation of Schedule II controlled substances.

Amendment No. 1

Representative Hirschi offered the following amendment to **CSHB 226**:

Amend **CSHB 226** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 481.002, Health and Safety Code, is amended by amending Subdivision (47) and adding Subdivisions (50), (51), (52), (53), and (54) to read as follows:

(47) "Official [~~Triplicate~~] prescription form" means a [~~an official Department of Public Safety~~] prescription form that contains the prescription information required by Section 481.075 and to which is affixed a prescription sticker [used to administer, dispense, prescribe, or deliver to an ultimate user a controlled substance listed in Schedule H].

(50) "Patient identification number" means:

(A) a unique number assigned to the person by the department or by an analogous department of another state that appears on the person's driver's license or personal identification certificate;

(B) the registration number assigned to the person under Chapter 13, Election Code;

(C) a unique number assigned to the person by an agency of the United States that appears on the person's social security card, military identification card, passport, visa, work permit, or other identification card;

(D) for a person younger than 18 years of age who has not been issued a document described by Paragraph (A), (B), or (C), the number assigned to the person's parent or guardian that appears on a document described by those paragraphs issued to that parent or guardian; or

(E) for an animal, the number assigned to the animal's owner that appears on a document described by Paragraph (A), (B), (C), or (D).

(51) "Department" means the Department of Public Safety.

(52) "Driver's license" has the meaning assigned that term by Section 521.001, Transportation Code.

(53) "Personal identification certificate" means a certificate issued under Subchapter E, Chapter 521, Transportation Code.

(54) "Prescription sticker" means a prescription sticker issued by the director under Section 481.075.

SECTION 2. Subchapter A, Chapter 481, Health and Safety Code, is amended by adding Section 481.003 to read as follows:

Sec. 481.003. RULES. The director may adopt rules to administer and enforce this chapter.

SECTION 3. Section 481.064, Health and Safety Code, is amended to read as follows:

Sec. 481.064. [~~RULES;~~] REGISTRATION FEES. (a) [~~The director may adopt reasonable rules.~~

~~[(b)]~~ The director may charge an annual registration fee of not more than \$25. The director by rule shall set the amount of the fee at the amount that is [\$5 for the costs] necessary to cover the cost of administering and enforcing [administer] this subchapter [chapter]. Except as provided by Subsection (b) [~~(c)~~], registrants shall pay the fees to the director.

(b) [~~(c)~~] The director may authorize a contract between the department [~~Department of Public Safety~~] and an appropriate state agency for the collection and remittance of the fees. The director by rule may provide for remittance of the fees collected by state agencies for the department.

(c) [~~(d)~~] The director shall deposit the collected fees [~~in the state treasury~~] to the credit of the operator's and chauffeur's license account in the general revenue fund. The fees may be used only by the department [~~Department of Public Safety~~] in the administration or enforcement of this subchapter [~~chapter~~].

SECTION 4. Section 481.074, Health and Safety Code, is amended by amending Subsections (a), (b), (c), and (f) and adding Subsections (m) and (n) to read as follows:

(a) A pharmacist may not:

(1) dispense or deliver a controlled substance or cause a controlled substance to be dispensed or delivered under the pharmacist's direction or supervision except under a valid prescription and in the course of professional practice;

(2) fill a prescription that is not prepared or issued as prescribed by this chapter;

(3) permit or allow a person who is not a licensed pharmacist or pharmacist intern to dispense, distribute, or in any other manner deliver a controlled substance even if under the supervision of a pharmacist, except that after the pharmacist or pharmacist intern has fulfilled his professional and legal responsibilities, a nonpharmacist may complete the actual cash or credit transaction and delivery; or

(4) permit the delivery of a controlled substance to any person not known to the pharmacist, the pharmacist intern, or the person authorized by the pharmacist to deliver the controlled substance without first requiring identification of the person taking possession of the controlled substance, except as provided by Subsection (n) [~~; if the person taking possession of the controlled substance does not have identification and the pharmacist determines that the controlled substance is needed for the immediate well-being of the patient, delivery may be made; this subsection does not prohibit the delivery by mail or authorized delivery person of a controlled substance to a person or the address of the person authorized by prescription to receive that controlled substance~~].

(b) Except in an emergency as defined by rule of the director or as provided by Section 481.075(j) [~~481.075(g)~~], a person may not dispense or administer a controlled substance listed in Schedule II without the written prescription of a practitioner on an official prescription [~~a~~] form that meets the requirements of and is completed by the practitioner in accordance with Section 481.075, and if the controlled substance is to be dispensed, the practitioner must be registered under Section 481.063. In an emergency, a person may dispense or administer a controlled substance listed in Schedule II on the oral or telephonically communicated prescription of a practitioner. The person who administers or dispenses the substance shall:

(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and [shall] include in the written record of the prescription the name, address, and Federal Drug Enforcement Administration number of the prescribing practitioner, all information required to be provided by a [the] practitioner under Section 481.075(e)(1) [481.075(d)], and all information required to be provided by a [the] dispensing pharmacist under Section 481.075(e)(2) [481.075(f)]. The person shall send a copy of the written record to the Department of Public Safety not later than the 30th day after the date the prescription is filled].

(c) Not later than 72 hours after authorizing an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause a written prescription, completed in the manner required by Section 481.075, to be delivered in person or mailed to the dispensing pharmacist at the pharmacy where the prescription was dispensed. The envelope of a prescription delivered by mail must be postmarked not later than 72 hours after the prescription was authorized. On receipt of the prescription, the dispensing pharmacy shall file the transcription of the telephonically communicated prescription and the pharmacy copy. The pharmacist or the pharmacy that employs the pharmacist shall send all information required by the director, including any information required to complete an official prescription form, to the director by electronic transfer, a universal claim form customarily used by pharmaceutical service providers, or other form approved by the director ~~to the Department of Public Safety the department's copy~~ not later than the 30th day after the date the prescription was dispensed.

(f) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question about whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner prior to partially filling the prescription. Both the pharmacist and the practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record ~~on~~ the prescription on an official prescription form and must indicate on the form whether the patient is "terminally ill" or an "LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of this Act. For each partial filling, the dispensing pharmacist shall record on the back of ~~[Copy 1 and Copy 2 of]~~ the official prescription form the date of the partial filling, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Prior to any subsequent partial filling, the pharmacist is to determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions for patients in a long-term care facility or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed 30 days from the issue date unless sooner terminated by discontinuance of the medication.

(m) A pharmacist may permit the delivery of a controlled substance by an authorized delivery person, by a person known to the pharmacist, a pharmacist intern, or the authorized delivery person, or by mail to the person or address of the person authorized by the prescription to receive the controlled substance. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years:

(1) the name of the authorized delivery person, if delivery is made by that person;

(2) the name of the person known to the pharmacist, a pharmacist

intern, or the authorized delivery person if delivery is made by that person; or
(3) the mailing address to which delivery is made, if delivery is made by mail.

(n) A pharmacist may permit the delivery of a controlled substance to a person not known to the pharmacist, a pharmacist intern, or the authorized delivery person without first requiring the identification of the person to whom the controlled substance is delivered if the pharmacist determines that an emergency exists and that the controlled substance is needed for the immediate well-being of the patient for whom the controlled substance is prescribed. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years all information relevant to the delivery known to the pharmacist, including the name, address, and date of birth or age of the person to whom the controlled substance is delivered. The pharmacist shall also retain in the records of the pharmacy for a period of not less than two years the patient identification number of the person to whom the controlled substance is delivered if the person has such a number and that number is required by the prescribing practitioner.

SECTION 5. Section 481.075, Health and Safety Code, is amended to read as follows:

Sec. 481.075. OFFICIAL ~~[TRIPLICATE]~~ PRESCRIPTION PROGRAM.

(a) A practitioner who prescribes a controlled substance listed in Schedule II shall, except as provided by rule adopted under Section 481.0761, record the prescription on a prescription form that includes the information required by this section and affix to the form a prescription sticker issued by the director under this section ~~[that meets the requirements of Subsection (b)]~~.

(b) Each prescription sticker must be sequentially numbered and produced in a manner that makes impossible removal of the sticker from the prescription form to which it is affixed.

(c) The director ~~[Department of Public Safety]~~ shall issue prescription stickers ~~[the forms]~~ to practitioners for a fee covering the actual cost of printing, ~~[and]~~ processing ~~[the forms]~~, and mailing ~~[containers, and binders and the actual cost of mailing]~~ the stickers ~~[forms]~~ at 100 stickers ~~[forms]~~ a package. Before mailing or otherwise delivering prescription stickers ~~[forms]~~ to a practitioner, the director ~~[department]~~ shall print on each sticker the number of the sticker and any other information the director determines is necessary ~~[forms the practitioner's name, address, Department of Public Safety registration number, and Federal Drug Enforcement Administration number]~~.

(d) A person may not obtain a ~~[the]~~ prescription sticker ~~[forms]~~ unless the person is a practitioner as defined by Section 481.002(39)(A) or an institutional practitioner.

(e) ~~[(b)]~~ Each prescription form used to prescribe a Schedule II controlled substance must ~~[be serially numbered and in triplicate, with the original copy labeled "Copy 1," the duplicate copy labeled "Copy 2," and the triplicate copy labeled "Copy 3." Each form must]~~ contain ~~[spaces for]~~:

(1) information provided by the prescribing practitioner, including:

(A) the date the prescription is written;

(B) ~~[(2) the date the prescription is filled;~~

~~[(3)]~~ the controlled substance ~~[drug]~~ prescribed;

~~(C) the quantity of controlled substance prescribed, shown numerically followed by the number written as a word;~~

~~(D) the intended use of the controlled substance or the diagnosis for which it is prescribed[, the dosage,] and the instructions for use of the substance;~~

~~(E) [(4)] the practitioner's name, address, and Federal Drug Enforcement Administration number [of the dispensing pharmacy and the name of the pharmacist who fills the prescription]; and~~

~~(F) [(5)] the name, address, date of birth or [and] age, and patient identification number~~ of the person for whom the controlled substance is prescribed;

~~(2) information provided by the dispensing pharmacist, including the date the prescription is filled; and~~

~~(3) the signatures of the prescribing practitioner and the dispensing pharmacist.~~

~~(f) [(e)]~~ Not more than one prescription may be recorded on an official ~~[a]~~ prescription form, except as provided by rule adopted under Section 481.0761.

~~(g) [(d)]~~ Except for oral prescriptions prescribed under Section 481.074(b), the prescribing practitioner shall:

~~(1) legibly fill in, or direct a designated agent to legibly fill in, on [all three copies of] the official prescription form, each item of information required to be [in the space] provided by the prescribing practitioner under Subsection (e)(1), unless the practioner determines that:~~

~~(A) under rule adopted by the director for this purpose, it is unnecessary for the practitioner or the practitioner's agent to provide the patient identification number [the date the prescription is written]; or~~

~~(B) it is not in the best interest of the patient for the practitioner or practitioner's agent to provide information regarding [the drug prescribed, the quantity (shown numerically followed by the number written as a word), instructions for use, and] the intended use of the controlled substance [drug] or the diagnosis for which it [the controlled substance] is prescribed; and~~

~~[(C) the name, address, and age of the patient or, in the case of an animal, its owner, for whom the controlled substance is prescribed;]~~

~~(2) sign [Copies 1 and 2 of] the official prescription form and give the form [them] to the person authorized to receive the prescription[; and~~

~~[(3) retain Copy 3 of the form with the practitioner's records for at least two years after the date the prescription is written].~~

~~(h) [(e)]~~ In the case of an oral prescription prescribed under Section 481.074(b), the prescribing practitioner shall give the dispensing pharmacy the information needed to complete the form.

~~(i) [(f)]~~ Each dispensing pharmacist shall:

~~(1) fill in on [Copies 1 and 2 of] the official prescription form each item of [in the space provided the] information given orally to the dispensing pharmacy under Subsection (h), the date the prescription is filled, and the dispensing pharmacist's signature [not required to be filled in by the prescribing practitioner or the Department of Public Safety];~~

~~(2) [indicate the total quantity dispensed on the face of the triplicate prescription form;~~

~~[(3)]~~ retain ~~[Copy 2]~~ with the records of the pharmacy for at least two years;

(A) the official prescription form; and

(B) the name or other patient identification required by Section 481.074(m) or (n); and

(3) ~~[(4) sign Copy 1 and]~~ send all information required by the director, including any information required to complete an official prescription form, ~~[it]~~ to the director by electronic transfer, a universal claim form customarily used by pharmaceutical service providers, or other form approved by the director ~~[Department of Public Safety]~~ not later than the 30th day after the date the prescription is filled or not later than the 30th day after the completion of a prescription dispensed under Section 481.074(f).

(j) ~~[(g)]~~ A medication order written for a patient who is admitted to a hospital at the time the medication order is written and filled is not required to be on a form that meets the requirements of this section.

(k) ~~[(h)]~~ Not later than the 30th ~~[seventh]~~ day after the date a practitioner's ~~department~~ ~~[Department of Public Safety]~~ registration number, Federal Drug Enforcement Administration number, or license to practice has been denied, suspended, canceled, surrendered, or revoked, the practitioner shall return to the department all prescription stickers ~~[forms]~~ in the practitioner's possession that ~~[are issued under Subsection (a) and]~~ have not been used for prescriptions.

(l) Each prescribing practitioner:

(1) may use a prescription sticker only to prescribe a controlled substance;

(2) shall date or sign an official prescription form only on the date the prescription is issued; and

(3) shall take reasonable precautionary measures to ensure that a prescription sticker issued to the practitioner is not used by another person to violate this subchapter or a rule adopted under this subchapter.

(m) A pharmacy in this state may fill a prescription for a controlled substance listed in Schedule II issued by a practitioner in another state if:

(1) a substantial share of the pharmacy's business involves the dispensing and mailing of controlled substances;

(2) the prescription is issued by a prescribing practitioner in the other state in the ordinary course of practice; and

(3) the prescription is filled in compliance with a written plan providing the manner in which the pharmacy may fill a Schedule II prescription issued by a practitioner in another state that:

(A) is submitted by the pharmacy to the director; and

(B) is approved by the director in consultation with the Texas State Board of Pharmacy.

(n) This section expires September 1, 2003.

~~[(i) The director may adopt rules to implement this section and Section 481.076.]~~

SECTION 6. Section 481.076, Health and Safety Code, is amended to read as follows:

Sec. 481.076. OFFICIAL ~~[TRIPPLICATE]~~ PRESCRIPTION INFORMATION. (a) The director may not permit any person to have access

to information submitted to the director [~~Department of Public Safety~~] under Section 481.075 except:

(1) an investigator [~~investigators~~] for the Texas State Board of Medical Examiners, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, or the Texas State Board of Pharmacy; ~~or~~

(2) an authorized officer or member [~~officers~~] of the department [~~Department of Public Safety~~] engaged in the administration, investigation, or enforcement of [~~suspected criminal violations of~~] this chapter or another law governing illicit drugs in this state or another state; or

(3) if the director finds that proper need has been shown to the director:

(A) a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(B) a pharmacist or practitioner who is a physician, dentist, veterinarian, or podiatrist and is inquiring about the recent Schedule II prescription history of a particular patient of the practitioner; or

(C) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity [~~who obtain access with the approval of an investigator listed in Subdivision (1).~~]

(b) This section does not prohibit the director from creating, using, or disclosing statistical data about information received by the director under this section if the director removes any information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information. [~~An investigator listed in Subsection (a)(1) shall cooperate with and assist the authorized officers of the Department of Public Safety in obtaining information for investigations of suspected criminal violations of this chapter.~~]

(c) The director by rule [~~Department of Public Safety~~] shall design and implement a system for submission of information to the director by electronic or other means and for retrieval of information submitted to the director [~~department~~] under this section and Section 481.075. The director [~~department~~] shall use automated information security techniques and devices to preclude improper access to the information. The director shall submit the system design to the Texas State Board of Pharmacy and the Texas State Board of Medical Examiners for review and approval or comment a reasonable time before implementation of the system and shall comply with the comments of those agencies unless it is unreasonable to do so.

(d) Information submitted to the director [~~Department of Public Safety~~] under this section may be used only for:

(1) the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(2) [~~drug-related criminal investigatory or evidentiary purposes or for~~] investigatory or evidentiary purposes in connection with the functions of an agency listed in Subsection (a)(1); or

(3) dissemination by the director to the public in the form of a statistical tabulation or report if all information reasonably likely to reveal the

identity of each patient, practitioner, or other person who is a subject of the information has been removed.

(e) The director [~~Department of Public Safety~~] shall remove from the information retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted under this section to the director [~~department~~] not later than the end of the 12th calendar month after the month in which the identity is entered into the system. However, the director [~~department~~] may retain a patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this section until the 30th day after the end of the month in which the necessity for retention of the identity ends.

(f) If the director permits access to information under Subsection (a)(2) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify and cooperate with that agency regarding the disposition of the matter before taking action against the person, unless the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(g) If the director permits access to information under Subsection (a)(3)(A) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify that agency of the disclosure of the information not later than the 10th working day after the date the information is disclosed unless:

(1) the person to whom the information is disclosed requests the director to withhold notification to the agency; and

(2) the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(h) If the director withholds notification to an agency under Subsection (g), the director shall notify the agency of the disclosure of the information and the reason for withholding notification when the director determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

(i) Information submitted to the director under Section 481.075 is confidential and remains confidential regardless of whether the director permits access to the information under this section.

(j) This section expires September 1, 2003. [~~The department shall report semiannually, based on the state fiscal year, to the Legislative Budget Board certifying that this subsection has been complied with and setting forth in detail the results of monthly audits showing that identities have been removed from the system and made irretrievable in compliance with this subsection. The department shall correct any failure to comply with this subsection as soon as practicable after discovery. A person who is responsible for a failure to comply with this subsection is subject to disciplinary action, including dismissal.~~]

SECTION 7. Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Section 481.0761 to read as follows:

Sec. 481.0761. RULES; AUTHORITY TO CONTRACT. (a) The director shall consult with the Texas State Board of Pharmacy and by rule establish and revise as necessary a standardized database format that may be used by a pharmacy to transmit the information required by Section 481.075(i) to the director electronically or to deliver the information on storage media, including disks, tapes, and cassettes.

(b) The director shall consult with the Texas Department of Health, the Texas State Board of Pharmacy, and the Texas State Board of Medical Examiners and by rule may:

(1) remove a controlled substance listed in Schedule II from the official prescription program, if the director determines that the burden imposed by the program substantially outweighs the risk of diversion of the particular controlled substance; or

(2) return a substance previously removed from Schedule II to the official prescription program, if the director determines that the risk of diversion substantially outweighs the burden imposed by the program on the particular controlled substance.

(c) The director by rule may:

(1) permit more than one prescription to be administered or dispensed and recorded on one official prescription form;

(2) remove from or return to the official prescription program any aspect of a practitioner's or pharmacist's hospital practice, including administering or dispensing;

(3) waive or delay any requirement relating to the time or manner of reporting;

(4) establish compatibility protocols for electronic data transfer hardware, software, or format;

(5) establish a procedure to control the release of information under Sections 481.075 and 481.076; and

(6) establish a minimum level of prescription activity below which a reporting activity may be modified or deleted.

(d) The director by rule shall authorize a practitioner to determine whether it is necessary to obtain a particular patient identification number and to provide that number on the official prescription form.

(e) In adopting a rule relating to the electronic transfer of information under this subchapter, the director shall consider the economic impact of the rule on practitioners and pharmacists and, to the extent permitted by law, act to minimize any negative economic impact, including the imposition of costs related to computer hardware or software or to the transfer of information. The director may not adopt a rule relating to the electronic transfer of information under this subchapter that imposes a fee in addition to the fee authorized by Section 481.064.

(f) The director may authorize a contract between the department and another agency of this state or a private vendor as necessary to ensure the effective operation of the official prescription program.

(g) This section expires September 1, 2003.

SECTION 8. Section 481.127(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person ~~[intentionally or]~~ knowingly gives, permits, or obtains unauthorized access to information submitted to the director ~~[Department of Public Safety]~~ under Section 481.075.

SECTION 9. Section 481.128(a), Health and Safety Code, is amended to read as follows:

(a) A registrant or dispenser commits an offense if the registrant or dispenser knowingly ~~[or intentionally]~~:

(1) distributes, delivers, administers, or dispenses a controlled substance in violation of Sections 481.070-481.075 ~~[481.070-481.074]~~;

(2) manufactures a controlled substance not authorized by the person's registration or distributes or dispenses a controlled substance not authorized by the person's registration to another registrant or other person;

(3) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by this chapter;

(4) prints, manufactures, possesses, or produces a prescription sticker or official ~~[triplicate]~~ prescription form without the approval of the director ~~[Department of Public Safety]~~;

(5) delivers or possesses a counterfeit prescription sticker or official ~~[triplicate]~~ prescription form;

(6) refuses an entry into a premise for an inspection authorized by this chapter;

(7) refuses or fails to return a ~~[triplicate]~~ prescription sticker ~~[form]~~ as required by Section 481.075(k) ~~[481.075(h)]~~; or

(8) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule adopted ~~[before June 1, 1991]~~ by the director.

SECTION 10. Section 481.129(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly ~~[or intentionally]~~:

(1) distributes as a registrant or dispenser a controlled substance listed in Schedule I or II, unless the person distributes the controlled substance under an order form as required by Section 481.069;

(2) uses in the course of manufacturing, prescribing, or distributing a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

(3) uses a ~~[triplicate]~~ prescription sticker ~~[form]~~ issued to another person to prescribe a Schedule II controlled substance;

(4) possesses or attempts to possess a controlled substance:

(A) by misrepresentation, fraud, forgery, deception, or subterfuge;

(B) through use of a fraudulent prescription form; or

(C) through use of a fraudulent oral or telephonically communicated prescription; or

(5) furnishes false or fraudulent material information in or omits material information from an application, report, record, or other document required to be kept or filed under this chapter.

SECTION 11. Section 552.118, Government Code, is amended to read as follows:

Sec. 552.118. EXCEPTION: OFFICIAL ~~[TRIPPLICATE]~~ PRESCRIPTION FORM. Information is excepted from the requirements of Section 552.021 if it is information on or derived from an official ~~[a triplicate]~~ prescription form filed with the director of the Department of Public Safety under Section 481.075, Health and Safety Code.

SECTION 12. Section 3.06(d)(6)(J)(i), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(i) A physician may delegate to a physician assistant offering obstetrical services and certified by the board as specializing in obstetrics or an advanced nurse practitioner recognized by the Texas State Board of Nurse Examiners as a nurse midwife the act or acts of administering or providing controlled substances to the nurse midwife's or physician assistant's clients during intra-partum and immediate post-partum care. The physician may ~~[shall]~~ not delegate the use of a prescription sticker or the use or issuance of an official [a-triplicate] prescription form under [the-triplicate-prescription program,] Section 481.075, Health and Safety Code.

SECTION 13. Except as otherwise provided by this section, this Act takes effect September 1, 1999. Section 7 of this Act takes effect September 1, 1997. The director of the Department of Public Safety by rule may permit the use of triplicate or single prescription forms during a period of transition, but not after March 1, 1999.

SECTION 14. The change in law made by this Act does not affect any retention, use, or destruction requirement of Section 481.075 or 481.076, Health and Safety Code, that relates to a prescription written under the triplicate prescription program before September 1, 1999. A provision of those sections relating to retention of a triplicate record by a practitioner or pharmacist or the use or destruction of information obtained through the triplicate prescription program by the Department of Public Safety continues in effect for the purpose of governing the disposition of any triplicate prescription record or any information arising from a triplicate prescription written before September 1, 1999.

SECTION 15. A change in law made to Section 481.127(a), 481.128(a), or 481.129(a), Health and Safety Code, by this Act applies only to an offense committed under that section on or after September 1, 1999. An offense committed under one of those sections before September 1, 1999, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 1999, if any element of the offense occurred before that date.

SECTION 16. The change in law made by this Act to Section 3.06(d)(6)(J)(i), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), does not affect the dispensing of a Schedule II controlled substance by a pharmacist to:

(1) a certified registered nurse anesthetist for use in providing anesthesia or anesthesia-related services under the Medical Practice Act; or

(2) a certified nurse midwife or a physician assistant certified by the Texas State Board of Medical Examiners as specializing in obstetrics for use in administering a Schedule II controlled substance to a client during the provision of intra-partum and immediate postpartum care under the Medical Practice Act.

SECTION 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 1 was adopted without objection.

CSHB 226, as amended, was passed to engrossment.

CSHB 155 ON SECOND READING**(by Greenberg)**

CSHB 155, A bill to be entitled An Act relating to the listing and registration of family homes; providing penalties.

(Talton now present)

CSHB 155 was passed to engrossment. (Heflin, Howard, and Swinford recorded voting no)

CSHB 839 ON SECOND READING**(by Driver, Averitt, Davila, Burnam, and Danburg)**

CSHB 839, A bill to be entitled An Act relating to prohibiting discrimination by insurers in issuing health or life insurance policies to certain persons who are victims of family violence.

Amendment No. 1

Representative Chisum offered the following amendment to **CSHB 839**:

Amend **CSHB 839** on page 7, between lines 22 and 23, by inserting the following:

Sec. 9. RIGHT OF SUBROGATION. A health benefit plan issuer or life insurer who pays a benefit for injury or death that results from family violence has a right of subrogation, for the amount of the benefit paid, with respect to any claim brought for damages resulting from the injury or death against the person who committed the act of family violence.

Amendment No. 1 was withdrawn.

CSHB 839 was passed to engrossment.

HB 1161 ON SECOND READING**(by Clark)**

HB 1161, A bill to be entitled An Act relating to uniform competitive bidding requirements for municipalities.

Amendment No. 1

Representative Clark offered the following amendment to **HB 1161**:

Amend **HB 1161** by adding a new appropriately numbered section to read as follows and by renumbering the existing sections as appropriate:

SECTION _____. Section 252.022(a)(10), Local Government Code, is amended to read as follows:

(10) A public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;

Amendment No. 1 was adopted without objection.

HB 1161, as amended, was passed to engrossment.

CSHB 1356 ON SECOND READING
(by Counts)

CSHB 1356, A bill to be entitled An Act relating to licensing of funeral prearrangement life insurance agents.

CSHB 1356 was passed to engrossment.

HB 1502 ON SECOND READING
(by Yarbrough)

HB 1502, A bill to be entitled An Act relating to eligibility for, and payment of, benefits by certain public retirement systems for municipal employees.

Representative Yarbrough moved to postpone consideration of **HB 1502** until 10 a.m. Monday, May 5.

The motion prevailed without objection.

HB 1611 ON SECOND READING
(by B. Turner)

HB 1611, A bill to be entitled An Act relating to the testing of natural gas piping systems in school district facilities.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Merritt, Representative B. Turner offered the following committee amendment to **HB 1611**:

Page 1, line 11. Add the following new sentence to subsection (a).

In the event of year round schooling, the test shall be conducted and reported by July 1 of each year.

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Merritt, Representative B. Turner offered the following committee amendment to **HB 1611**:

Page 2, line 5. Amend (c)(1) as follows:

After the word "receives" delete the word "notice" and insert the following language "official notification from the firm or individual conducting the test."

Amendment No. 2 was adopted without objection.

Amendment No. 3 (Committee Amendment No. 3)

On behalf of Representative Merritt, Representative B. Turner offered the following committee amendment to **HB 1611**:

Page 2, line 8. Add the following new subsection (d) after line 8.

(d) The Railroad Commission of Texas shall provide enforcement in the event of noncompliance.

Amendment No. 3 was adopted without objection.

Amendment No. 4 (Committee Amendment No. 4)

On behalf of Representative Davis, Representative B. Turner offered the following committee amendment to **HB 1611**:

On Page 2, add a new subsection (e) to Section 2 as follows:

(e) Identified natural gas leaks will be reported to the local school board.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Yarbrough offered the following amendment to **HB 1611**:

Amend **HB 1611** as follows:

(1) On page 1, between line 20 and 21, insert the following:

(e) Notwithstanding any other provision of this section, a school district's compliance with the inspection requirement concerning the pressure in the natural gas piping systems in school district facilities under the code of a municipality in which the school district is located satisfies the pressure testing requirements under this section.

(2) On page 1, line 23, between "test" and the period, insert "or other inspection".

(3) On page 2, line 7, between "test" and "at", insert "or other inspection".

(4) On page 2, line 12, between "tests" and "of", insert "or other inspections".

(5) On page 2, line 13, between "tests" and "as", insert "or other inspections".

Amendment No. 5 was adopted without objection.

HB 1611, as amended, was passed to engrossment. (Heflin recored voting no)

HB 1742 ON SECOND READING
(by Bosse and Williams)

HB 1742, A bill to be entitled An Act relating to residential construction liability.

Amendment No. 1

Representative Dunnam offered the following amendment to **HB 1742**:

Amend **HB 1742** on page 2, line 21 to reinsert the deleted language to read as follows:

or an agent, employee or subcontractor of the contractor

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Dunnam offered the following amendment to **HB 1742**:

Amend **HB 1742** on page 2, line 23 to reinsert the deleted language to read as follows:

or an agent, employee or subcontractor of the contractor to:

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Dunnam offered the following amendment to **HB 1742**:

Amend **HB 1742** on page 3, line 15 to reinsert the deleted language to read as follows:

(f) If a claimant unreasonably rejects an

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Dunnam offered the following amendment to **HB 1742**:

Amend **HB 1742** on page 4 by striking lines 5 through 8 and substituting the following:

(i) The total damages awarded in a suit subject to this chapter, excluding reasonable and necessary attorney's fees, arbitration expenses and taxable costs, may not exceed the greater of the claimant's purchase price for the residence or the fair market value of the residence without the construction defect.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Dunnam offered the following amendment to **HB 1742**:

Amend **HB 1742** on page 4, line 12 to reinsert the deleted language to read as follows:

or an agent, employee or subcontractor of the contractor

Amendment No. 5 was adopted without objection.

HB 1742, as amended, was passed to engrossment.

HR 805 - ADOPTED
(by Williams)

Representative Williams moved to suspend all necessary rules to take up and consider at this time **HR 805**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 805, Congratulating Roman and Lillian Arnoldy on the occasion of their 50th wedding anniversary.

HR 805 was adopted without objection.

HR 776 - ADOPTED
(by Oakley)

Representative Oakley moved to suspend all necessary rules to take up and consider at this time **HR 776**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 776, In memory of Miles Adair "Shady" Crow.

HR 776 was unanimously adopted by a rising vote.

HR 804 - ADOPTED
(by Thompson)

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 804**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 804, Honoring Iris Sally for her commitment to the schoolchildren of Houston.

HR 804 was adopted without objection.

RULES SUSPENDED

Representative Yarbrough moved to suspend the 5-day posting rule to allow the Committee on Economic Development to consider **HB 1421**, **SB 417**, **SB 571**, **SB 658**, **SB 781**, **SB 932**, **SB 1262**, and **SB 1263**

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Insurance, on adjournment today, Desk 24, to consider **HB 1662**.

ADJOURNMENT

Representative Farrar moved that the house adjourn until 10 a.m. Monday, May 5 in memory of Conrad Richard Sanchez-Pallares.

The motion prevailed without objection.

The house accordingly, at 6:21 p.m., adjourned until 10 a.m. Monday, May 5.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3601 (by Smithee), Relating to the treatment of certain annuities as charitable gift annuities and the application of the Insurance Code and certain other laws to charitable gift annuities.

To Insurance.

SB 18 to County Affairs.

SB 19 to County Affairs.

SB 379 to State Affairs.
SB 397 to Pensions & Investments.
SB 555 to Business & Industry.
SB 732 to Public Safety.
SB 835 to Financial Institutions.
SB 1050 to Land & Resource Management.
SB 1069 to State Affairs.
SB 1119 to Civil Practices.
SB 1150 to Environmental Regulation.
SB 1202 to State, Federal & International Relations.
SB 1290 to Financial Institutions.
SB 1291 to Insurance.
SB 1333 to State Affairs.
SB 1334 to State Affairs.
SB 1351 to Transportation.
SB 1383 to Judicial Affairs.
SB 1388 to Insurance.
SB 1406 to Natural Resources.
SB 1455 to County Affairs.
SB 1506 to Transportation.
SB 1520 to Environmental Regulation.
SB 1534 to Judicial Affairs.
SB 1546 to Public Safety.
SB 1604 to Civil Practices.
SB 1651 to Insurance.
SB 1910 to Environmental Regulation.

MESSAGE FROM THE SENATE

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 2, 1997 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 11 Luna, Gregory

Relating to the enforcement of a child support obligation in a suit to terminate the parent-child relationship.

SB 257 Luna, Gregory

Relating to the regulation of the practice of naturopathic medicine; providing penalties.

SB 924 Nixon, Drew

Relating to the operation of a motor home dealership by a motor home manufacturer.

SB 1090 Patterson, Jerry

Relating to a signature verification committee in the general election for state and county officers.

SB 1375 Nixon, Drew

Relating to the appraisal of certain leaseholds for tax purposes.

SB 1808 Barrientos

Relating to the international education fee at The University of Texas at Austin.

Respectfully,

Betty King

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Friday, May 2, 1997 - 4

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 1286 Gallegos

Relating to civil service for firefighters and police officers in certain municipalities.

SB 1539 West, Royce

Relating to the regulation of certain facilities, homes, and agencies that provide child care and of child-care administrators; providing penalties.

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 1

Business & Industry - **HB 374, HB 878, SB 700**

Civil Practices - **SB 753, SB 1697**

Corrections - **HB 877, SB 51**

County Affairs - **HB 2805, SB 367**

Criminal Jurisprudence - **HB 369, HB 476, HB 1519, HB 2283, HB 2897, HB 2958, HB 2969**

Economic Development - **SB 1519**

Elections - **HB 1237**

Environmental Regulation - **HB 1674, HB 2560, SB 681, SB 1591**

Financial Institutions - **HB 2798, HCR 211, SB 547, SB 652**

Higher Education - **HB 1043, HB 1940, HB 2616, HB 2944, HCR 209, SB 591, SB 1028, SB 1422**

House Administration - **SB 1301**

Human Services - **SB 667**

Insurance - **HB 3453, SB 1111, SB 1913**

Judicial Affairs - **HB 444, HB 1317, SB 580**

Juvenile Justice & Family Issues - **HB 2065, HB 3591, SB 170, SB 625, SB 670**

Land & Resource Management - **HB 190, HB 1395, HB 1873, HB 2946, SB 727**

Public Education - **HB 648, HB 1800, HB 2262, HB 3049, SB 168, SB 297**

Public Safety - **HB 135, HB 456, HB 972, HB 1048, HB 1455, HB 2693, HB 2880, HB 2899, SB 526**

Redistricting - **SB 715**

State, Federal & International Relations - **HCR 82**

Transportation - **SB 303, SB 698, SB 1016, SB 1352, SB 1828, SCR 24**

Ways & Means - **HB 1030, HB 2230, SB 1014**

ENGROSSED

May 1 - **HB 10, HB 57, HB 107, HB 331, HB 547, HB 571, HB 691, HB 1216, HB 1243, HB 1585, HB 1853, HB 1856, HB 2033, HB 2071, HB 2180, HB 2295, HB 2541, HB 2542, HB 2617, HB 2777, HB 2841, HB 2945, HB 3027, HB 3031, HB 3061, HB 3158, HB 3190, HB 3256, HB 3383**

ENROLLED

May 1 - **HB 1266**

SENT TO THE GOVERNOR

May 1 - **HB 1266**

SIGNED BY THE GOVERNOR

May 1 - **HB 368, HB 520, HB 680, HB 1424, HCR 36, HCR 53, HCR 111, HCR 210**